

# Internal Revenue Service memorandum

date:

to: District Director  
Brooklyn Key District Office  
Attn: Chief, EP/EO Division

from: Chief, Employee Plans Rulings Branch  
National Office E:EP:R

subject: [REDACTED]

Year(s) Involved: 8609 to present

☒ Attached is our memorandum in response to your request for technical advice in the case described above.

☐ Case returned for further development.

Remarks:

see attachment to this transmittal memorandum

Attachments: (Check appropriate blocks)

- ☒ Copy of this memorandum
- ☒ Original and two copies of Technical Advice memorandum
- ☐ Copy of Technical Advice memorandum edited for IRC 6110 purposes
- ☐ Copy of Technical Advice dating schedule
- ☒ Key District Office case file (Copy of each memorandum to ARC (Examination))
- ☐ Appeals Office case file (Copy of each memorandum to Reg. Dir. of Appeals)
- ☐

Distribution: Copy of each memorandum to: (Check appropriate blocks)

- ☒ ARC (Examination) North Atlantic Region ☐ Reg. Dir. of Appeals \_\_\_\_\_ Region
- ☒ OP:E:O, Room 2221 ☐ CC:AP:PT, Room \_\_\_\_\_
- ☐ ☐

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Brooklyn Key District Office  
Attachment to Transmittal Memorandum

This case was submitted to the National Office on January 26, 1988, with two issues presented in your technical advice request. The first issue presented was whether certain designated benefits in the [REDACTED]

[REDACTED] (Plan) are permissible benefits in a qualified plan. The attached technical advice memorandum sets forth our response to the first issue.

The second issue you presented was whether it is acceptable in granting credit during a leave of absence that wages reflect all increases awarded the job classification during such leave. Under section [REDACTED] of the Plan, any employee granted a leave of absence to become the full time president of the union is granted credit under the Plan for the duration of the leave of absence. The representatives of the [REDACTED] have confirmed that no local union presidents are highly compensated. Therefore, as a practical matter no discrimination would result, and accordingly, we did not consider it necessary to discuss this second issue in a formal Technical Advice Memorandum.

Finally, during discussions between representatives of the Corporation and the National Office, an issue was raised as to whether section 2.02(c) meets the requirements that benefits be definitely determinable. Section 2.02(c) provides for early retirement at the option of the company, or under mutually satisfactory conditions.

Your technical advice request did not formally raise the issue of whether benefits under section 2.02(c) are definitely determinable. Further, the representatives for the Corporation have stated that this benefit has not been used since prior to [REDACTED], and they anticipate that this provision will be deleted from the Plan at its next negotiation in late [REDACTED] or early [REDACTED]. Further, they assert that the income tax regulations under section 411(d)(6) do not apply for purposes of this determination letter request. We suggest that you confirm that the provision will be deleted.

Please contact Ms. Ingrid E. Grinde at FTS 535-6307 if you have any questions.